INDEX.

	Page
Motion for Leave to File Complaint	1
Statement in Support of Motion for Leave to File Complaint	2
Complaint	4

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966.

No. ..... Original.

STATE OF MISSOURI,
Plaintiff,

vs.

STATE OF NEBRASKA,
Defendant.

MOTION FOR LEAVE TO FILE COMPLAINT AND COMPLAINT.

MOTION FOR LEAVE TO FILE COMPLAINT.

The State of Missouri, by Norman H. Anderson, its Attorney General, for the reasons set forth in the accompanying Statement in Support of Motion for Leave to File Complaint, and again more fully set forth in the accompanying Complaint, asks leave of the Court to file its Complaint against the State of Nebraska submitted herewith.

NORMAN H. ANDERSON
Attorney General
State of Missouri
Supreme Court Building
Jefferson City, Missouri.

STATEMENT IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT.

This is an action by the State of Missouri against the State of Nebraska to be, upon leave of Court, instituted as an original action in this Court under authority of Article III, Section 2 of the Constitution of the United States, as it involves a controversy between the State of Missouri and the State of Nebraska.

The establishment of a disputed interstate boundary, the cause of action pleaded in the complaint, is an action historically cognizable in equity and susceptible of judicial enforcement.

The purpose of the proposed action is to establish a claim by the State of Missouri to sovereignty over land on both sides of the Missouri River in Holt and Atchison Counties, Missouri. The original jurisdiction of this Court is invoked because claims of sovereignty to all or parts of the land have been and are presently being made by both the State of Missouri and the State of Nebraska, and complete relief is possible only in this Court.

The complaint, in addition to alleging classical ox-bow situations where, due to flood, the Missouri River (the boundary between Missouri on its western side and Nebraska on its eastern side) has suddenly cut through necks of land and assumed new channels, also alleges divers disputes where the Nebraska claims have no stated basis. Both states have claimed and are claiming sovereignty over parts of the area. Repeated efforts, in good faith, have been made unsuccessfully by the states to resolve this dispute and avoid the present litigation. Only after all such efforts at

settlement have been exhausted are the present motion and complaint filed.

NORMAN H. ANDERSON
Attorney General
State of Missouri

BRICK P. STORTS, III
Assistant Attorney General
Supreme Court Building
Jefferson City, Missouri
Council for Plaintiff.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. ..... Original.

STATE OF MISSOURI,
Plaintiff,

vs.

STATE OF NEBRASKA,
Defendant.

COMPLAINT.

The State of Missouri, by Norman H. Anderson, its Attorney General, brings this suit against the defendant, the State of Nebraska, and for its cause of action states:

1. The jurisdiction of this Court is invoked under Article III, Section 2 of the Constitution of the United States.

2. The northwestern boundary of the State of Missouri was extended to the Missouri River by virtue of the Platte Purchase of 1836. 5 Stat. at Large 34.

3. At the time of its admission to the Union over presidential veto on April 19, 1864, the eastern boundary of Nebraska was established as "... the middle of the channel of said [Missouri] River ..." between the 40th degree of north latitude and the junction of the Niobrara River with the Missouri River.

4. The states of Missouri and Nebraska share a common border in the Missouri River between the southernmost

boundary of Nebraska and the northernmost boundary of Missouri.

5. For the last two decades conflicting claims by parties purporting to own private titles in lands adjacent to the river along this border have been asserted. This court on at least one occasion found it necessary to affirm the divestiture of title of a Missouri resident to lands which the United States District Court for the Western District of Missouri had found to be Missouri lands, because the Missouri resident had made a general entry of appearance in the Nebraska courts and thus conferred jurisdiction upon the Nebraska courts to try the title, Durfee v. Duke, 375 U.S. 106. Other title actions have been brought in the past against holders of Missouri lands such as Otoe County, Nebraska v. Nenneman et al., United States District Court for the District of Nebraska upon apparently unfounded claims for Nebraska taxes against lands on the Missouri side of the river which have been in the undisturbed possession of Missourians from time immemorial. Tax sales and threatened tax sales in Nebraska courts occur with regularity against lands on the Missouri side of the river which are and have been in the undisturbed possession of Missourians for generations and no foundation or explanation for said sales have been forthcoming.

6. The State of Missouri by authorization of its legislature and by the efforts of its Governor and attorney General have sought to ascertain the nature of the claims made against its lands by the State of Nebraska but no explanation has been offered.

7. The State of Missouri has further attempted to establish a compact agreement with the State of Nebraska with respect to the common boundary, also to no avail.

WHEREFORE, Plaintiff prays:

A. That this court exercise its jurisdiction and declare sovereignty in the State of Missouri over those lands bordering the State of Nebraska which rightfully belong to the State of Missouri.

B. And for such other and further relief as to the Court seems meet and appropriate in the premises.

NORMAN H. ANDERSON
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State of Missouri

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Counsel for Plaintiff.

HOWARD L. McFADDEN
Assistant Attorney General
Of Counsel.